

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Ronald J. Allison,

Plaintiff

v.

Clark County Detention Center,

Defendant

Case No. 2:22-cv-01065-CDS-VCF

Order Dismissing and
Closing Case

Plaintiff Ronald J. Allison brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at Clark County Detention Center. ECF No. 1-1. On January 19, 2023, the court ordered Allison to file his updated address and a non-prisoner application to proceed *in forma pauperis* by February 20, 2023. ECF No. 4. The court warned Allison that the action could be dismissed if he failed to file these documents. *Id.* at 2. That deadline expired, and plaintiff did not file his updated address or a non-prisoner application to proceed *in forma pauperis*, move for an extension, or otherwise respond, and the court's order came back as undeliverable to the last address that plaintiff provided. ECF No. 5.

I. DISCUSSION

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party's failure to obey a court order or comply with local rules. *See Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the court must consider: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the

1 risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their
2 merits; and (5) the availability of less drastic alternatives. *See In re Phenylpropanolamine Prod. Liab.*
3 *Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone*, 833 F.2d at 130).

4 The first two factors, the public's interest in expeditiously resolving this litigation and
5 the court's interest in managing its docket, weigh in favor of dismissing Allison's claims. The
6 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a
7 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading
8 ordered by the court or prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir.
9 1976). The fourth factor—the public policy favoring disposition of cases on their merits—is
10 greatly outweighed by the factors favoring dismissal.

11 The fifth factor requires the court to consider whether less drastic alternatives can be
12 used to correct the party's failure that brought about the court's need to consider dismissal. *See*
13 *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic
14 alternatives *before* the party has disobeyed a court order does not satisfy this factor); *accord*
15 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that “the persuasive
16 force of” earlier Ninth Circuit cases that “implicitly accepted pursuit of less drastic alternatives
17 prior to disobedience of the court's order as satisfying this element[,]” *i.e.*, like the “initial
18 granting of leave to amend coupled with the warning of dismissal for failure to comply[,]” have
19 been “eroded” by *Yourish*). Courts “need not exhaust every sanction short of dismissal before
20 finally dismissing a case, but must explore possible and meaningful alternatives.” *Henderson v.*
21 *Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed until
22 and unless Allison files his updated address and a non-prisoner application to proceed *in forma*
23 *pauperis*, the only alternative is to enter a second order setting another deadline. But the reality of
24 repeating an ignored order is that it often only delays the inevitable and squanders the court's
25 finite resources. The circumstances here do not indicate that this case will be an exception: the
26 court's last order came back as undeliverable, and there is no reason to believe that a second
27 order would even reach plaintiff. Setting another deadline is not a meaningful alternative given
28 these circumstances. So the fifth factor favors dismissal.

1 II. CONCLUSION

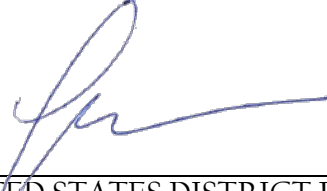
2 Having thoroughly considered these dismissal factors, I find that they weigh in favor of
3 dismissal. It is therefore ordered that this action is dismissed without prejudice based on
4 Allison's failure to file his updated address and a non-prisoner application to proceed *in forma*
5 *pauperis*, in compliance with this court's order.

6 The Clerk of Court is directed to enter judgment accordingly and close this case. No
7 other documents may be filed in this now-closed case.

8 If Allison wishes to pursue his claims or intends to file any new pro se civil actions in this
9 district in the future, he must first obtain pre-filing permission from the Chief Judge of this
10 court in compliance with the order issued in case number 2:22-cv-01114-CDS-EJY.

11 IT IS SO ORDERED.

12 DATED: May 23, 2023

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15 _____
UNITED STATES DISTRICT JUDGE